

Information Disclosure Statement

Regarding the Information Disclosure Statement of 26 March 2009, applicant argues "documents cited in an Information Disclosure Statement can be patents, publications, US patent applications, or other information." Applicants fail to point out in either of the MPEP passages the requirement of the citation of information to copending applications on a PTO-Form 1449 Information Disclosure Statement. Applicant may inform the Examiner of copending applications as required by the MPEP. This may be done in a communication from applicant as to this information.

The entry of these documents on a PTO-Form 1449 Information Disclosure Statement is improper, and these entries will not be initialed.

1) The Examiner has access through the Electronic Desktop Application Navigator (eDan) system of all applications filed in the US Patent and Trademark Office, and is able to monitor the prosecution of any copending application. As such, these citations are unnecessary and redundant and can only serve to confuse the record of the instantly filed application.

2) The MPEP specifically shows a proper PTO-Form 1449 Information Disclosure Statement at MPEP 609, pages 600-143 and 600-144 in the 5th Revised Edition. The content of these includes "U.S. Patent Documents," "Foreign Patent Documents," and "Non-Patent Literature Documents," and when citing the latter to include, the author, title of the article or item, date, pages, volume-issue, publisher and city of publication. These documents are clearly not US Patents, foreign patents and cannot be construed as being literature, and if so, are not cited in proper format, as required by the Form.

Art Unit: 1796

3) Furthermore, the citation of these Office Actions on the face of a published patent may damage the confidentiality of the copending applications that may not be finished in prosecution. These documents are not printed publications and will not be found in libraries or other depositories of information so that the general public would have access to these files without compromising the integrity of any copending file, whose actions are cited by applicant, that may not be finished in prosecution, and still pending.

/Nathan M. Nutter/
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